

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **for**

4 **H. B. 4278**

5
6 (By Delegates Perdue, Fleischauer, Morgan,
7 Guthrie, Ellington, Staggers and Swartzmiller)

8
9 [Passed March 8, 2014; in effect ninety days from passage.]
10

11 AN ACT to amend and reenact §30-3-15 of the Code of West Virginia,
12 1931, as amended, relating to medical and podiatry
13 corporations; declaring certain unlawful acts; clarifying the
14 certificate of authorization requirements for in-state and
15 out-of-state medical and podiatry corporations; setting forth
16 the shareholder requirements; setting notice certain
17 requirements to the Secretary of State; clarifying renewal
18 requirements for certificate of authorization; clarifying
19 conditions under which the medical and podiatry corporations
20 can practice; stating requirements for ceasing operation;
21 ensuring the physician-patient and podiatrist-patient
22 relationships are not changed; declaring certain evidence as
23 admissible and prima facie evidence of the facts contained;
24 creating a misdemeanor offense; and providing criminal

1 penalties.

2 *Be it enacted by the Legislature of West Virginia:*

3 That §30-3-15 of the Code of West Virginia, 1931, as amended,
4 be amended and reenacted to read as follows:

5 **ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

6 **§30-3-15. Certificate of authorization requirements for medical**

7 **and podiatry corporations.** (a) *Unlawful acts.* - It is
8 unlawful for any corporation to practice or offer to practice
9 medicine and surgery or podiatry in this state without a
10 certificate of authorization issued by the board designating
11 the corporation as an authorized medical or podiatry
12 corporation.

13 (b) *Certificate of authorization for in-state medical or*
14 *podiatry corporation.* - One or more physicians licensed to practice
15 medicine and surgery in this state under this article, or one or
16 more physicians licensed under this article and one or more
17 physicians licensed under article fourteen of this chapter, or one
18 or more podiatrists licensed to practice podiatry in this state may
19 receive a certificate of authorization from the board to be
20 designated a medical or podiatry corporation by:

21 (1) Filing a written application with the board on a form
22 prescribed by the board;

23 (2) Furnishing satisfactory proof to the board that each

1 shareholder of the proposed medical or podiatry corporation is a
2 licensed physician or podiatrist pursuant to this article or
3 article fourteen of this chapter; and

4 (3) Submitting applicable fees which are not refundable.

5 (c) *Certificate of authorization for out-of-state medical or*
6 *podiatry corporation.* - A medical or podiatry corporation formed
7 outside of this state for the purpose of engaging in the practice
8 of medicine and surgery or the practice of podiatry may receive a
9 certificate of authorization from the board to be designated a
10 foreign medical or podiatry corporation by:

11 (1) Filing a written application with the board on a form
12 prescribed by the board;

13 (2) Furnishing satisfactory proof to the board that the
14 medical or podiatry corporation has received a certificate of
15 authorization or similar authorization from the appropriate
16 authorities as a medical or podiatry corporation, or professional
17 corporation in its state of incorporation and is currently in good
18 standing with that authority;

19 (3) Furnishing satisfactory proof to the board that at least
20 one shareholder of the proposed medical or podiatry corporation is
21 a licensed physician or podiatrist pursuant to this article and is
22 designated as the corporate representative for all communications
23 with the board regarding the designation and continuing
24 authorization of the corporation as a foreign medical or podiatry

1 corporation;

2 (4) Furnishing satisfactory proof to the board that all of the
3 medical or podiatry corporation's shareholders are licensed
4 physicians or podiatrists in one or more states and submitting a
5 complete list of the shareholders, including each shareholder's
6 name, their state or states of licensure and their license
7 number(s); and

8 (5) Submitting applicable fees which are not refundable.

9 (d) *Notice of certificate of authorization to Secretary of*
10 *State* - When the board issues a certificate of authorization to a
11 medical or podiatry corporation, then the board shall notify the
12 Secretary of State that a certificate of authorization has been
13 issued. When the Secretary of State receives a notification from
14 the board, he or she shall attach that certificate of authorization
15 to the corporation application and, upon compliance by the
16 corporation with the pertinent provisions of this code, shall
17 notify the incorporators that the medical or podiatry corporation,
18 through licensed physicians or licensed podiatrists, may engage in
19 the practice of medicine and surgery or the practice of podiatry in
20 West Virginia.

21 (e) *Authorized practice of medical or podiatry corporation* -
22 An authorized medical corporation may only practice medicine and
23 surgery through individual physicians licensed to practice medicine
24 and surgery in this state. An authorized podiatry corporation may

1 only practice podiatry through individual podiatrists licensed to
2 practice podiatry in this state. Physicians or podiatrists may be
3 employees rather than shareholders of a medical or podiatry
4 corporation, and nothing herein requires a license for or other
5 legal authorization of, any individual employed by a medical or
6 podiatry corporation to perform services for which no license or
7 other legal authorization is otherwise required.

8 (f) *Renewal of certificate of authorization* - A medical or
9 podiatry corporation holding a certificate of authorization shall
10 register biennially, on or before the expiration date on its
11 certificate of authorization, on a form prescribed by the board,
12 and pay a biennial fee. If a medical or podiatry corporation does
13 not timely renew its certificate of authorization, then its
14 certificate of authorization automatically expires.

15 (g) *Renewal for expired certificate of authorization* - A
16 medical or podiatry corporation whose certificate of authorization
17 has expired may reapply for a certificate of authorization by
18 submitting a new application and application fee in conformity with
19 subsection (b) or (c) of this section.

20 (h) *Ceasing operation -- In-state medical or podiatry*
21 *corporation.* - A medical or podiatry corporation formed in this
22 state and holding a certificate of authorization shall cease to
23 engage in the practice of medicine, surgery or podiatry when
24 notified by the board that:

1 (1) One of its shareholders is no longer a duly licensed
2 physician or podiatrist in this state; or

3 (2) The shares of the medical or podiatry corporation have
4 been sold or transferred to a person who is not a licensed
5 physician or podiatrist in this state. The personal representative
6 of a deceased shareholder shall have a period, not to exceed twelve
7 months from the date of the shareholder's death, to transfer the
8 shares. Nothing herein affects the existence of the medical or
9 podiatry corporation or its right to continue to operate for all
10 lawful purposes other than the practice of medicine and surgery or
11 the practice of podiatry.

12 (i) *Ceasing operation -- Out-of-state medical or podiatry*
13 *corporation.* - A medical or podiatry corporation formed outside of
14 this state and holding a certificate of authorization shall
15 immediately cease to engage in the practice of medicine, surgery or
16 podiatry in this state if:

17 (1) The corporate shareholders no longer include at least one
18 shareholder who is licensed to practice as a physician or
19 podiatrist in this state;

20 (2) The corporation is notified that one of its shareholders
21 is no longer a licensed physician or podiatrist; or

22 (3) The shares of the medical or podiatry corporation have
23 been sold or transferred to a person who is not a licensed
24 physician or podiatrist. The personal representative of a deceased

1 shareholder shall have a period, not to exceed twelve months from
2 the date of the shareholder's death, to transfer the shares. In
3 order to maintain its certificate of authorization to practice
4 medicine, surgery or podiatry during the twelve month period, the
5 medical or podiatry corporation shall, at all times, have at least
6 one shareholder who is a licensed physician or podiatrist in this
7 state. Nothing herein affects the existence of the medical or
8 podiatry corporation or its right to continue to operate for all
9 lawful purposes other than the practice of medicine, surgery or
10 podiatry.

11 (j) *Notice to Secretary of State* - Within thirty days of the
12 expiration, revocation or suspension of a certificate of
13 authorization by the board, the board shall submit written notice
14 to the Secretary of State.

15 (k) *Unlawful acts.* - It is unlawful for any corporation to
16 practice or offer to practice medicine and surgery or podiatry
17 after its certificate of authorization has expired or been revoked,
18 or if suspended, during the term of the suspension.

19 (l) *Application of section* - Nothing in this section is meant
20 or intended to change in any way the rights, duties, privileges,
21 responsibilities and liabilities incident to the physician-patient
22 or podiatrist-patient relationship, nor is it meant or intended to
23 change in any way the personal character of the physician-patient
24 or podiatrist-patient relationship.

1 (m) *Court evidence* - A certificate of authorization issued by
2 the board to a corporation to practice medicine and surgery or
3 podiatry in this state that has not expired, been revoked or
4 suspended is admissible in evidence in all courts of this state and
5 is prima facie evidence of the facts stated therein.

6 (n) *Penalties* - Any officer, shareholder or employee of a
7 medical or podiatry corporation who violates this section is guilty
8 of a misdemeanor and, upon conviction thereof, shall be fined not
9 more than \$1,000 per violation.